

COMPLAINT 2005 - NO. 5
In Re McCoy

August, 2005

Determination of Reasonable Cause - Order of Dismissal

I. NATURE OF THE COMPLAINT

State Representative John McCoy is the General Manager of Quil Ceda Village, a municipal and corporate body of the Tulalip Tribes. The Complaint alleges the Representative violated the Ethics in Public Service Act (Act) through his support of legislation favorable to Quil Ceda Village and the Tulalip Tribes.

The allegations may be stated as follows:

1. Representative McCoy, a member of the Tulalip Tribes, would directly and personally benefit by the passage of House Bill 1721 because the Tulalips distribute funds to tribal members, designated as per capita distributions, and House Bill 1721 would provide an additional source for funding per capita distributions.
2. Representative McCoy used public resources to lobby his legislative colleagues for the purpose of encouraging their support for House Bill 1721.
3. Representative McCoy failed to recuse himself on the vote on House Bill 1721 when the bill was before the House of Representatives.

II. PROCEDURAL HISTORY

The Complaint was filed with the Board on April 8, 2005. Representative McCoy filed a written response on April 12 and on April 21 the Board concluded it had both personal and subject-matter jurisdiction. An investigation was ordered pursuant to RCW 42.52.420. The Board continued its preliminary discussions on the Complaint and the investigation at regularly scheduled Board meetings on May 19 and July 21.

III. RESULTS OF INVESTIGATION

1. House Bill 1721 would have permitted the Tulalip Tribes to retain a portion of the state retail sales tax collected on sales at Quil Ceda Village.
2. According to tribal authorities and employees of the Tulalip's accounting department, no tax receipts are currently being used as a source of funds for distribution to tribal members, no tax receipts have ever been used as a source of funds for distribution to tribal members and there are no plans to use tax receipts in the future as a source of funds for distribution to tribal members.
3. Representative McCoy acknowledges using public resources to provide information to his legislative colleagues on House Bill 1721 in an effort to gain support for the legislation as well as to counter opposition to the legislation.

4. Representative McCoy, on more than one occasion, sought and received legal advice from the Designated Ethics Adviser for the House of Representatives. The Adviser counseled the Representative that he could sponsor, debate and vote on House Bill 1721 insofar as the facts available to the Adviser were that Representative McCoy would not directly and personally benefit from the passage of the bill.

5. Representative McCoy voted on House Bill 1721 when the bill was before the House of Representatives.

6. According to tribal officials and records, Representative McCoy receives a salary determined by a published salary schedule established by ordinance and the salary is not dependent upon the success or failure of legislation favorable to the Tulalips, including House Bill 1721.

IV. CONCLUSIONS

1. Even though Representative McCoy holds the high ranking, managerial position of General Manager of the Tulalip's Quil Ceda Village, and the passage of House Bill 1721 would have conferred some financial benefit on his employer, the investigation revealed no facts or circumstances which would support the allegation that Representative McCoy would directly or personally benefit in an improper way from the passage of House Bill 1721.

2. Since the investigation revealed no facts or circumstances which would support the allegation that Representative McCoy would directly or personally benefit in an improper way from the passage of House Bill 1721, his efforts to support the legislation with the use of public resources were not improper.

3. Based upon the conclusions above, there is no issue of recusal for the Board to consider. The Board would, however, like to avail itself of the opportunity for this complaint to serve as a reminder that legislators may request a ruling from the presiding officer in the House or Senate before voting on a measure in which he or she may have a potential conflict of interest.

V. SUMMARY

Our conclusions are based on the facts as we understand them to exist at this time. If the Tulalips amend their per capita distribution procedures to include retail sales tax sources, or if Representative McCoy's employment relationship with the Tulalips may be viewed as dependent upon the success or failure of certain legislation, we would be faced with a different set of facts to consider.

VI. ORDER

The Complaint is dismissed for lack of reasonable cause to believe there has been a violation of the Act.

S/ _____
James A. Andersen - Chair

8/19/05
Date